



STATE BOARD OF EQUALIZATION

November 28, 1966

H--- D---'s S---
W---
XX-XXX E--- P---
P--- D---, California

SR – XX-XXXXXX

Dear Ms. D---:

Your letter of November 3 to Mr. R. J. Haines of the Franchise Tax Board has been referred to this Board which administers the Sales and Use Tax Law.

When merchandise purchased without tax for resale is used for any purpose other than resale, such as giving it away, the user becomes liable for the amount of tax that would have been paid had the property been purchased for gifts or for any purpose other than resale.

When, however, merchandise purchased for resale has become unsalable and, thus, must be discarded, it may be given to charity or otherwise disposed of without incurring tax liability.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb

cc: --- --- – Admin.

Section 6403 has been added to the Revenue and Taxation Code providing that the storage, use, or other consumption in this state of property donated by any retailer to any organization described in Section 170(b)(1)(A) of the Internal Revenue Code and located in California, is exempt from the use tax.

D. J. Hennessy 4/17/89

As with the circumstances in the annotation, a person may not purchase property under a resale certificate for the purpose of obtaining a section 6403 exemption. It would apply, however, if a person held property in legitimate resale inventory & then used it by making a qualifying donation.

DHL 2/20/98